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17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

19 WAYMO LLC,

20 CASE NO. 3:17-cv-00939-WHA

21 Plaintiff,

22 **PLAINTIFF WAYMO LLC'S  
ADMINISTRATIVE MOTION TO FILE  
UNDER SEAL PORTIONS OF ITS  
STATEMENT REGARDING QUESTIONS  
IT INTENDS TO ASK ANTHONY  
LEVANDOWSKI AT TRIAL**

23 vs.

24 UBER TECHNOLOGIES, INC.;  
25 OTTOMOTTO LLC; OTTO TRUCKING  
26 LLC,

27 Defendants.

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Pursuant to Civil L.R. 7-11 and 79-5, Plaintiff Waymo LLC (“Waymo”) respectfully requests to file under seal confidential information in portions of its Statement Regarding Questions it Intends to Ask Anthony Levandowski at Trial (“Statement”). Specifically, Waymo requests an order granting leave to file under seal the portions of the document as listed below:

Document	Portions to Be Filed Under Seal	Designating Party
Waymo’s Statement	Highlighted Portions	Waymo (green highlighting); Uber <sup>1</sup> (blue highlighting)

## I. LEGAL STANDARD

Civil Local Rule 79-5 requires that a party seeking sealing “establish[] that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law” (*i.e.*, is “sealable”). Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing only of sealable material.” *Id.* In the context of non-dispositive motions, materials may be sealed so long as the party seeking sealing makes a “particularized showing” under the “good cause” standard of Federal Rule of Civil Procedure 26(c). *Kamkana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (quoting *Foltz v. State Farm Mutual Auto Insurance Co.*, 331 F.3d 1122, 1135, 1138 (9th Cir. 2003)). Both the California Uniform Trade Secrets Act and the Defend Trade Secrets Act provide for maintaining the confidentiality of alleged trade secrets. Cal. Civ. Code § 3426.5 (“In an action under this title, a court shall preserve the secrecy of an alleged trade secret by reasonable means, which may include . . . sealing the records of the action[.]”); 18 U.S.C. § 1835(a) (“[T]he court shall enter such orders and take such other action as may be necessary and appropriate to preserve the confidentiality of trade secrets[.]”).

## II. THE COURT SHOULD SEAL WAYMO’S CONFIDENTIAL INFORMATION

The Court should seal the portions of Waymo’s Statement (highlighted in green) identified by Waymo in the table above. Waymo seeks to file this information under seal because it discloses Waymo’s trade secrets and confidential business information. *See Declaration of Lindsay Cooper*

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<sup>1</sup> “Uber” means Uber Technologies, Inc., Ottomotto LLC, and Otto Trucking LLC, collectively.

1 (“Cooper Decl.”), ¶¶ 3-4. Courts have determined that trade secret information merits sealing. *Music*  
 2 *Grp. Macao Commercial Offshore Ltd. v. Foote*, No. 14-cv-03078-JSC, 2015 WL 3993147, at \*1  
 3 (N.D. Cal. June 30, 2015) (quoting *Kamakana*, 447 F.3d at 1179); *see also Brocade Commc’ns Sys., Inc. v. A10 Networks, Inc.*, No. C 10-3428 PSG, 2013 WL 211115, at \*1, \*3 (N.D. Cal. Jan. 17, 2013)  
 4 (granting request to seal document that “consists entirely of descriptions of Brocade’s trade secrets.”).  
 5 Confidential business information that, if released, may “harm a litigant’s competitive standing” also  
 6 merits sealing. *See Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598-99 (1978). Waymo seeks to  
 7 seal confidential business information and trade secret information that fit squarely within these  
 8 categories. Cooper Decl. ¶¶ 3-5. Waymo maintains this information as a trade secret (*see* Dkt. 25-31)  
 9 and ensures the information remains secret with strict secrecy and security protocols (*see* Dkt. 25-47;  
 10 Dkt. 25-49.). *See* Cooper Decl. ¶ 4. Waymo has narrowly tailored its requests to only information  
 11 meriting sealing. *Id.* ¶ 5. In fact, both *Music Grp.* and *Brocade* found the confidential information at  
 12 issue in those cases met the heightened “compelling reasons” standard for sealing. *Music Grp.*, 2015  
 13 WL 3993147, at \*1; *Brocade*, 2013 WL 211115, at \*1, \*3. The information that Waymo seeks to  
 14 seal, therefore, also meets this heightened standard. The disclosure of Waymo’s trade secret and  
 15 confidential business information would harm Waymo (Cooper Decl. ¶ 4), and, thus, the Court should  
 16 grant Waymo’s administrative motion to seal.  
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### 18 **III. UBER’S CONFIDENTIAL INFORMATION**

19 Waymo only seeks to seal the portions of Waymo’s Statement (highlighted in blue) as  
 20 identified in the table above, because Waymo believes such information is considered confidential or  
 21 non-public by Uber. Cooper Decl. ¶ 6. Waymo takes no position as to the merits of sealing any Uber  
 22 designated material, and expects Uber to file a declaration in accordance with the Local Rules.  
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1 **IV. CONCLUSION**

2 In compliance with Civil Local Rule 79-5(d), redacted and unredacted versions of the above  
3 listed documents accompany this Administrative Motion. For the foregoing reasons, Waymo  
4 respectfully requests that the Court grant Waymo's administrative motion to file under seal.

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6 DATED: July 7, 2017

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